

STATE OF MICHIGAN
COURT OF APPEALS

MARC DOYLE,

Plaintiff-Appellant,

v

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED
January 31, 2013

No. 306343
Wayne Circuit Court
LC No. 11-005448-NF

Before: JANSEN, P.J., and SAWYER and FORT HOOD, JJ.

PER CURIAM.

In this action for first-party no-fault benefits, plaintiff appeals by right the circuit court order dismissing his complaint and assessing sanctions of \$1,500 against plaintiff's counsel. We affirm.

In April 2008, plaintiff brought an action against defendant in the Wayne Circuit Court seeking first-party no-fault insurance benefits for injuries sustained in a May 2007 automobile accident. In June 2008, the court granted defendant's motion to change venue to Oakland County. Plaintiff never appealed that decision. The parties appeared for trial in Oakland County on March 8, 2011. At that time, the parties agreed to dismiss the case in order to pursue alternative dispute resolution. Pursuant to the parties' agreement, the case was dismissed without prejudice and the order of dismissal specified that if the case was not resolved, plaintiff could "re-file his action" no later than May 7, 2011.

On May 6, 2011, plaintiff filed this action in the Wayne Circuit Court, again seeking no-fault benefits in connection with the May 2007 automobile accident. Defendant again filed a motion for change of venue. It also filed a motion for sanctions. The trial court ruled that plaintiff acted improperly by filing the action in Wayne County given that his previous action was filed in Wayne County, venue was changed to Oakland County, and he then obtained a voluntary dismissal of that action. Accordingly, the court dismissed the action. The court also assessed a sanction of \$1,500 against plaintiff's counsel for his role in filing the second action in Wayne County.

Plaintiff first argues that the trial court erred by dismissing his complaint because venue was proper in Wayne County. Regardless of the merits of plaintiff's venue argument, the trial court did not actually grant a change of venue under MCR 2.222(A).¹ Instead, the trial court dismissed the action as a sanction because it determined that plaintiff's counsel acted improperly by refileing the case in Wayne County knowing that venue had previously been transferred from Wayne County to Oakland County. The trial court has inherent authority to impose sanctions on the basis of misconduct by a party or an attorney, *Persichini v William Beaumont Hosp*, 238 Mich App 626, 639; 607 NW2d 100 (1999), as well as for violation of a court order, MCR 2.504(B)(1). This includes the authority to dismiss the action. *Id.* Plaintiff does not address this aspect of the trial court's ruling. Because plaintiff has failed to address an issue that must necessarily be reached to reverse the trial court, he is not entitled to relief on appeal. *City of Riverview v Sibley Limestone*, 270 Mich App 627, 638; 716 NW2d 615 (2006).

Plaintiff also argues that the trial court erred by imposing a monetary sanction against his attorney. However, plaintiff lacks standing to raise this issue because he was not personally aggrieved by that aspect of the order. See *Manuel v Gill*, 481 Mich 637, 643; 753 NW2d 48 (2008). Plaintiff suffered no injury by the trial court's decision to sanction counsel; nor would plaintiff benefit were this Court to determine that the imposition of the monetary sanction was improper. See *Federated Ins Co v Oakland Co Rd Comm*, 475 Mich 286, 291-292; 715 NW2d 846 (2006); see also *Ford Motor Co v Jackson (On Rehearing)*, 399 Mich 213, 226; 249 NW2d 29 (1976). Even if plaintiff had standing to raise this issue, however, he has not demonstrated entitlement to relief. Contrary to plaintiff's understanding, sanctions were not imposed against counsel for maintaining that venue was proper in Wayne County. The trial court clearly stated that venue was not the issue. Rather, the court imposed sanctions because of counsel's improper conduct in refileing the case in Wayne County knowing that venue had previously been transferred from Wayne County to Oakland County. Plaintiff's failure to address the basis for the trial court's ruling precludes appellate relief. *Riverview*, 270 Mich App at 638.

Affirmed. As the prevailing party, defendant may tax costs pursuant to MCR 7.219.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Karen M. Fort Hood

¹ Although the court did later enter an order nominally granting defendant's motion for change of venue, that order was of no effect because the case had already been dismissed pursuant to the order granting defendant's motion for sanctions. Further, the order stated that the motion was granted for the reasons stated on the record, which dealt with counsel's misconduct, not whether Wayne County was the proper forum. While the trial court did actually order a change of venue in the prior 2008 case, plaintiff never appealed that order and it is not subject to collateral review in this action. See *Kosch v Kosch*, 233 Mich App 346, 353; 592 NW2d 434 (1999); *SS Aircraft Co v Piper Aircraft Corp*, 159 Mich App 389, 393; 406 NW2d 304 (1987).